

**REMARKS**

The examiner is thanked for the interview held on December 4, 2006. Upon entering the above amendments, claims 1-3, 5-9, 11-15, and 17-23 will be pending with claims 1, 9, 14, 22, and 23 being independent. Claims 1, 6-9, 13-14, and 18 have been amended, claims 4, 10, and 16 have been canceled, and claims 19-23 have been added. No new matter has been added. Reconsideration and allowance of the above-referenced application are respectfully requested.

Interview Summary

An interview was held on December 4, 2006 at 2:00 PM ET to discuss the section 112 and section 103 rejections. The interview included the examiner, the examiner's supervisor, and the applicant's representative, Joseph Juliano. During that interview, it was agreed that section 112 rejections related to "if" and similar language would be withdrawn, and section 112 rejections related to variables would be withdrawn with clarification to the claims. No agreement was reached regarding the 103 rejections.

Rejections under 35 USC § 112

Claims 1, 6-9, 13-14, and 18 stand rejected under 35 USC § 112. These rejections are traversed.

"Optionally recited" subject matter

As agreed during the interview, the rejection of claims 1, 6-9, 13-14, and 18 for containing allegedly "optionally recited" subject matter will be withdrawn. Thus, the rejections of these claims for these reasons are moot.

Claim 6

Claim 6 is rejected as allegedly being indefinite. As discussed, the claim 6 has been amended such that claim 6 now recites, in part, " $F$  is a real number." This amendment clarifies the claimed subject matter and should overcome the rejection of claim 6. Thus, claim 6 is allowable.

Claims 7, 13, and 18

Claims 7, 13, and 18 are rejected as allegedly being indefinite. As discussed, claims 7, 13, and 18 have been amended such that claims 7, 13, and 18 now recite, in part, "in response to executing the query on a previous subset of the data...defin[ing] a next subset of the data in the

data repository and execut[ing] the query on the next subset of the data.” This amendment clarifies the claimed subject matter and should overcome the rejections of claims 7, 13, and 18. Thus, claims 7, 13, and 18 are allowable.

Rejections under 35 USC § 103

Claims 1-5, 7, and 9-18 stand rejected under 35 USC § 103(a) as being unpatentable over Amiri et al. (US Patent 6,950,823) in view of Dettinger et al. (US Pre-Grant Publication 2004/0210579). These rejections are traversed.

Independent claims 1, 9, and 14, as amended, are allowable as neither reference discloses a query to be executed on a subset of data if an estimate of the number of results of the query indicates that executing the query on the subset of the data is estimated to return a number of results greater than a threshold number.

Claims 1, 9 and, 14 have been amended to recite, in part, “determining whether to execute [a] query on [a] subset of [] data, the query to be executed on the subset of the data if [an] estimate of the number of results of the query indicates that executing the query on the subset of the data is estimated to return a number of results greater than a threshold number.” In some implementations, this determination may save valuable processing resources, as, for example, a query need not be needlessly performed on a large data set to provide more results than are needed and query overhead may be reduced. ¶ 14 of the present application.

Amiri discloses performing searches on a cache and performing searches on a data repository. Col. 6:38-65 of Amiri. In contrast to the claimed subject matter, no estimate of a number of results is generated, and, that estimate is not used to determine whether to execute a query on a subset of data. Dettinger also fails to disclose this feature. The disclosure of paragraph 95 of using estimates relates to determine whether a query should be modified. 890 of FIG. 8 of Dettinger. Execution of the query would be performed with a modified query- not the same query on a defined subset of data. Thus, as neither cited reference discloses features of the independent claims, these claims are patentable over the cited references. MPEP 2143.03 “To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.”).

In addition, combination of the cited references would not be obvious. In fact, Amiri appears to teach away from using estimates as Amiri's query clauses are focused on actually

fetching a certain number of records, not fetching an estimated number of records, and the cache is hit first, before checking other data sources. There is no reason to believe that an estimate of a number of results would assist Amiri, as Amiri may still need to go beyond a cache to satisfy a query. For example, "FETCH FIRST 20 ROWS ONLY" would require a search outside of the cache if the cache did not satisfy the first 20 rows. Col. 6:54-65. The query does not specify, for example, FETCH AROUND 20 ROWS IF ESTIMATED AS POSSIBLE. Estimating whether the cache would satisfy the results and then searching the cache would appear to serve no purpose.

Thus, for at least the reasons above, claims 1, 9, and 14 are allowable.

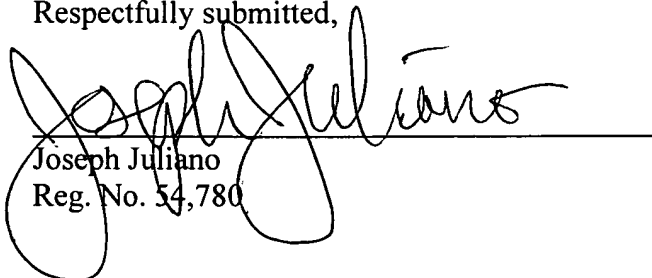
As claims 2-3 and 5-8; 11-13 and 19-20; and 15 and 17-18 depend directly, or indirectly, on claims 1, 9, and, 14, these claims are also allowable for at least the reasons given above.

### **CONCLUSION**

It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment. Applicant asks that all claims be allowed.

If there are any questions regarding these amendments and remarks, the Examiner is encouraged to contact the undersigned at the telephone number provided below. Enclosed is a check in the amount of \$400 for additional claim fees. The Commissioner is hereby authorized to charge any additional fees that may be due, or credit any overpayment of same, to Deposit Account No. 50-0311, Reference No. 34874-093.

Respectfully submitted,



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